

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 8/25/04 Item 3.c.

File Number
CP 04-055

Application Type
Conditional Use Permit

Council District
2

Planning Area
Edenvale

Assessor's Parcel Number(s)
689-28-005

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Jeff Roche

Location: Southerly side of Allegan Circle, approximately 200 feet easterly of Lean Avenue (420 Allegan Way)

Gross Acreage: 8.49

Net Acreage: 8.49

Net Density: n/a

Existing Zoning: R-1-8 Single-Family
Residence

Existing Use: Vacant Public School

Proposed Zoning: No Change

Proposed Use: Private School

GENERAL PLAN

Completed by: JR

Land Use/Transportation Diagram Designation
Public/Quasi-Public

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: JR

North: Single-Family Detached Residential

R-1-8 Single-Family Residence

East: Park

R-1-8 Single-Family Residence

South: Park and Single-Family Detached Residential

R-1-8 Single-Family Residence

West: Single-Family Detached Residential

R-1-8 Single-Family Residence

ENVIRONMENTAL STATUS

Completed by: JR

☐ Environmental Impact Report found complete
☐ Negative Declaration circulated on
☐ Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: JR

Annexation Title: Oak Grove No. 14

Date: 12/24/1963

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____

Approved by: _____
☒ Action
☐ Recommendation

PROPERTY OWNER/APPLICANT/CONTACT PERSON

Oak Grove School District
Attn: Hardy Childers
6578 Santa Teresa Boulevard
San José, CA 95119

Department of Public Works

See attached memorandum (dated 7/06/04)

Other Departments and Agencies

See attached memorandum from the Fire Department (dated 6/24/04), memorandum from the Environmental Services Department (dated 6/24/04), and e-mails from the Police Department, (dated 8/16/04 and 6/28/04).

GENERAL CORRESPONDENCE

See attached email from Oak Gove School District (dated 6/12/04) and letters from St. Stephen's School (dated 7/30/04, 7/28/04 and 6/04/04).

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The property owner, Oak Grove School District, is requesting a Conditional Use Permit to allow operation of a private school, St. Stephen's Episcopal School, at an existing public school site. The School District has proposed to lease the facility on a long-term basis to St. Stephen's Episcopal School. The District operated the site as a public school until recently, when due to budget constraints, it was closed as a public school. St. Stephen's is a private pre-school and elementary school that currently has a campus in South San Jose. They plan on relocating from their current site to the new location on Allegan Circle upon the approval of the Conditional Use Permit.

Private schools require a Conditional Use Permit in all residential Zoning Districts. This CUP also functions as a Site Development Permit for minor building and site improvements.

Surrounding land uses include detached residential uses to the north, a park to the east, a park and detached residential uses to the south, and detached residential uses to the west.

ENVIRONMENTAL REVIEW

The Environmental Quality Act, Section 15301 Existing Facilities - Class 1, specifies that projects may be found *exempt* which consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Staff has concluded that the project involves the use and minor alteration of an existing facility involving negligible or no expansion of use beyond that for which the facility was constructed. Based on this analysis, the Director of Planning has determined that this project is exempt from further environmental review under the provisions of the California Environmental Quality Act.

GENERAL PLAN CONFORMANCE

The proposed private school use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public.

PUBLIC OUTREACH

A notice of the Planning Commission public hearing was mailed to all owners and tenants of property within a 500-foot radius of the project site. No comments have been submitted by the neighborhood. Staff has been available to discuss the project with members of the public.

PROJECT DESCRIPTION

The new private school, St. Stephen's School, is proposing to utilize the existing building and associated facilities. As noted in the attached correspondence from the Oak Grove School District, enrollment at the facility while it was a public school ranged from a low of 462 in 1998 to a high of 743 in 1991. St. Stephen's School has indicated that the "optimum" enrollment and goal at this site is 282 students. Current enrollment at the existing St. Stephen's School facility is 198 students; preschoolers (ages 3 and 4) comprise 67 of that number. The kindergarten currently enrolls 28. The remaining 103 students are spread throughout grades one through eight, with no more than 20 students per class.

Minor exterior improvements including new doors and windows, new street trees, and fencing/gates will be installed as part of this project. The majority of improvements associated with converting this facility from a public to private school consist of interior modifications. The project developer is currently working with both the Building Division and Fire Department on the interior improvements.

St. Stephen's School will offer pre-school through the eighth grade of elementary school. The regular school year will be in session from August/ September through mid-June of each year. The regular school day will be from approximately 8:00 am to 3:30 pm, with extended care being offered before and after school from 7:00 am to 6:00 pm. There are no regularly scheduled activities during the evenings or the weekends. At various times during the year, there will be special events, such as back to school nights, open houses, and family picnics, consistent with typical events at many public elementary schools.

ANALYSIS

The key issues analyzed for the proposed project are land use compatibility, traffic and traffic safety, parking, and security.

Land Use Compatibility

A city park currently wraps around the easterly and southerly side of the site, providing a buffer between the school site and the existing residential neighborhood. The proposed private school would be a much less intense use of the site than it was designed to accommodate. The school site and associated grounds will continue to be open to the public, with access control during hours that the private school is open. The applicant has proposed to utilize the existing buildings and is not proposing to construct any new buildings.

For these reasons, staff has concluded that the proposed private school operations and activities as described, would be very similar to those of a public school and would not result in new land use compatibility concerns.

Traffic and Traffic Safety

Access to the site will be from two existing driveway cuts on the southerly side of Allegan Circle. These two driveway cuts connect to an existing circular parking lot that served the prior public school facility.

The applicant has proposed to utilize existing on-site areas for both staff parking and short-term visitor/parent parking. Vehicles would enter the site from the westerly driveway and exit from the easterly one. Traffic is proposed in one direction (counter-clockwise) to increase on-site stacking (double row of cars) and to minimize the potential for cars to stack on the public street. The applicant has also proposed to use the area along Allegan Circle (previously used for bus staging with the public school) for additional parking for parents.

The school requires parents of three-, four- and five-year olds to accompany their child to the classroom and personally check in their child with the teacher. All other students (age 6 – Grade 1 to age 14 – Grade 8) are allowed to walk from the drop-off areas into the playground area to line up for classes. Staff has included a condition in the draft permit restricting the maximum number of students at this site to 282.

In order to address concerns regarding traffic from child drop-off and pick-up from school, the private school has proposed to stagger start and departure times. Drop-off times would be spread throughout the morning from approximately 7:00 am until 8:30 am, and the school program would allow for pick-up from 11:30 a.m. to 6:00 p.m.

Staff has concluded that staggering start times will spread the volume of traffic over a several hour period each day, minimizing the potential for on-site stacking to overflow onto the public street. The Public Works Department performed an in-house traffic distribution for this project and concluded that the project is in conformance with City of San Jose Transportation Level of Service Policy (Council Policy 5-3).

For all of these reasons, together with the conditions in the draft permit, staff has further concluded that the proposed project will result in an orderly traffic flow and a safe drop-off operation.

Parking

The Zoning Code requires one parking space per six children, up to 5 spaces, and thereafter one space per 10 children for day care centers and a minimum of one space per teacher plus one space per employee for elementary (K-8) schools. St. Stephen's School has indicated that they will have 21 employees at the new site, including 17 teachers. A total of 39 on-site parking spaces exist on the site. This would leave an extra, 18 on-site parking spaces for parents and visitors, with the current preschool enrollment of 67 students resulting in a need for only 9 spaces.

The applicant is also working with City Transportation Department to create loading and short-term parking areas in front of the kindergarten playground on Allegan Circle. This section of the public

street was previously used for school bus staging. The proposed circulation and site layout has been reviewed by both the City's Transportation and Public Works Departments, and was determined to be acceptable.

As proposed and conditioned, staff has concluded that the proposed project conforms to the parking requirements of the Zoning Code.

Security

In response to the comments from the Police Department requesting better access control, the school has added new gates and fencing to restrict access to the school site. They have also indicated that they routinely discuss, plan, train, and review on-site safety issues with the school staff. A condition has been added to the draft permit requiring additional fencing as requested in the email from the Police Department (dated 8/16/04). Staff has discussed this condition with a representative of the School District who has agreed to include the additional fencing in the revised project plans.

As proposed and conditioned, staff has concludes that the proposed project provides an appropriate design for the security of the students.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. The project site is located on the southerly side of Allegan Circle, approximately 200 feet easterly of Lean Avenue (420 Allegan Circle). This Permit would allow a private pre-school and elementary school for up to 282 students in a former public school facility.
2. The site has a designation of Public /Quasi-Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
3. The project site is located in the R-1-8 Single-Family Residence Zoning District.
4. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
5. Surrounding land uses include a park to the east, a park and detached residential uses to the south, and detached residential uses to the west and north.
6. The Zoning Ordinance requires a Conditional Use Permit for a private school in the R-1-8 Single-Family Residence Zoning District.

7. The project proposes to allow a private preschool and elementary school for up to 282 students in a former public school facility. As conditioned, the private school will be restricted to a maximum of 282 students. At total of 39 parking spaces exist on the site. The proposed project includes an on-site child drop-off area. The project developer has proposed that start times for the students at the new private school will be staggered to minimize potential traffic issues and stacking from overflowing onto the public street.
8. Minor modifications to the exterior of the building (including doors and windows) and the site (including new fencing, gates, and street trees) will occur as part of this project.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth are hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** Construction and development shall conform to approved Site Development plans entitled, "Blossom Valley School – 420 Allegan Circle" dated, July 30, 2004, last revised in conformance with Condition Number 3 of this Conditional Use Permit, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
3. **Plan Revisions.** Within 60 days of the issuance of this Permit and prior to recordation, the Applicant shall revise the project plans to include the item(s) listed below to the satisfaction of the Director of Planning. Failure to provide said revisions within 60 days shall render this permit null and void.
 - a. Additional fencing as shown and discussed in the email from the City of San Jose, Police Department (dated 8/16/04).
4. **Traffic Management/Operation Plan.** Prior to the occupancy of this facility as a private school, the project developer shall submit a detailed traffic management/operation plan, that includes staggered start/finish times for classes, more information about the staggered start times relative to each grade in the private school, and on-site personnel to direct traffic and to ensure that parents and visitors park in

the correct areas, ensuring an orderly flow of traffic to and from this site, to the satisfaction of the Directors of Planning and Transportation. The facility shall be operated in conformance with this plan.

5. **Number of Students/Operation of Facility.** This facility shall be limited to a maximum of 282 students.
6. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
7. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
8. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
9. **Landscaping.** Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
10. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
11. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
12. **Fire Flow.** Required fire flow for the site is as approved in writing by the Fire Chief.
13. **Visible Street Numbers.** Street numbers shall be visible day and night from the nearest street, either by means of illumination or by use of reflective materials.
14. **Lock Box.** The project developer shall install a lock box on all gates, to the satisfaction of the City of San José, Building Official and Fire Chief.
15. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
16. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
17. **Outside Storage.** No outside sales or storage is permitted except in areas designated on the

approved Conditional Use Permit plan set.

18. **Noise.** The sound level generated on this site shall not exceed 55 dba DNL at any property line adjacent to a property used for residential purposes and shall not exceed 60 dba DNL at any adjacent property line of property used for commercial or other non-residential purposes.
19. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-16746) to the satisfaction of the Director of Public Works:
 - a. *Public Works Clearance for Building Permits.* Prior to the issuance of Building Permits, the project developer will be required to satisfy all Public Works conditions .
 - b. *Sewage Fees:* In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - c. *Minor Improvement Permit.* The public improvements conditioned as part of this Permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
 - d. *Street Improvements.* Remove and replace broken or uplifted curb, gutter, and sidewalk along the project frontage. Improvement of the public street shall be to the satisfaction of the Director of Public Works. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the Street Improvement Plans and any necessary pavement restoration will be included as part of the Final Street Improvement Plans.
 - e. *Electrical.* Installation/ relocation/ relamping of electroliers will be evaluated at the Improvement Plan Stage.
 - f. *Landscape/ Street Trees.* Install a minimum of (16) sixteen new street trees within the public right-of-way along the entire street frontage per City Standards. The location of the street trees will be in the park strip. Contact the City Arborist at (408) 277-2756 for the designated street tree.
20. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 04-055, shall be printed on all construction plans submitted to the Building Division.
 - b. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms to all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits,

please notify Planning Division staff at least one week prior to the final Building Division inspection date.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
 2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.
- c: James Zenere, Attorney at Law, Sheurman, Martini & Tabari, 1033 Willow Street, San Jose, CA 95125
Paul Wenninger, Head of School, St. Stephen's Episcopal School, 500 Shawnee Lane, San Jose, CA 95123
Weston Miles Architects, 17300 Monterey Road, Suite 200, Morgan Hill, CA 95037-3642